IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Crl.MC.No. 3378 of 2007()

(IN ST.534/2005 OF JFCM COURT PALA)

PETITIONER: ACCUSED:

BIJU P.DAS, S/O. PARAMU,
VIBJIYOR VISION, IIIRD FLOOR, CITY POINT BUILDING,
SWAMY CHINMAYANANDA ROAD, JOS JUNCTION, KOCHI-16.

BY ADV. SRI.N.K.MOHANLAL

RESPONDENTS: COMPLAINANT NO.1:

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1. **KISHORE,**
   VALIYAVEEDAN, PALA.

2. **STATE OF KERALA, REPRESENTED BY**
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

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Crl.M.C.No. 3378 of 2007

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Dated this the 7th day of November, 2007

ORDER

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instrument Act. Cognizance has been taken as early as in 2005. The petitioner has not appeared so far. Consequently he finds a warrant of arrest issued by the learned Magistrate chasing him. According to the petitioner he is absolutely innocent. His absence earlier was not wilful. He is willing to surrender before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate, in accordance with law and expeditiously. He therefore prays that a direction may be issued under Section 482 Cr.P.C to the learned Magistrate to release him on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. The learned Magistrate must consider such application for bail on merits, in accordance with law and

expeditiously. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C. is, in these circumstances, dismissed, but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously-on the date of surrender itself.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE